

**Before the
Federal Communications Commission
Washington, DC 20554**

FCC 17M-20
10784

| | | |
|-----------------------------------------------|---|-----------------------------------|
| In the Matter of |) | WTB Docket No. 17-17 |
| |) | FRN: 0016049017 |
| ACUMEN COMMUNICATIONS |) | |
| |) | |
| Licensee of Various Authorizations in the |) | Application File Nos. 0005614865, |
| Wireless Radio Services |) | 0005834762, 0005839763, |
| |) | 0005840938, 0005962267, |
| Applicant for Modification of Various |) | 0006039610, and 0006823865 |
| Authorizations in the Wireless Radio Services |) | |
| |) | |
| Applicant for Renewal of Authorization in the |) | |
| Wireless Radio Services |) | |

ORDER

Issued: April 10, 2017

Released: April 10, 2017

This case was designated for hearing by *Order to Show Cause, Hearing Designation Order and Notice of Opportunity for Hearing*, DA 17-33, released January 10, 2017 (*HDO*), issued under delegated authority by the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau. The issues seek to determine “whether Acumen repeatedly made misrepresentations to and lacked candor with the Commission” in failing to disclose the felony conviction of Mr. Hector Manuel Mosquera,¹ an apparent principal of Acumen. *HDO* at 1, para. 2; *id.* at 6, para. 16.² In fact, Mr. Mosquera himself signed the fifty (50) application forms at issue in this proceeding, all of which denied that “the Applicant or any party to this application, or any party directly or indirectly controlling the Application, [has] ever been convicted of a felony” *Id.* at 2-3, paras. 5 & 6.

On April 4, 2017, a Show Cause Hearing was held to give Acumen the opportunity to show cause as to why, *inter alia*, Acumen failed to file a Notice of Appearance and failed to

¹ The *HDO* asserts that Mr. Mosquera “was apparently convicted in March 1992 of possession for sale of a controlled substance, in violation of California Health Safety Code Section 11351, and sentenced to serve two years in California State Prison.” *HDO* at 3 para. 7. See Attachment A (Abstract of Judgment – Prison Commitment).

² It is noted that the Commission has pledged that it “regards drug trafficking as a matter of the gravest concern” and will “take all appropriate steps, including initiation of license revocation proceedings, where information comes to our attention that FCC licensees or their principals have been convicted of drug trafficking.” *Comm’n Clarifies Policies Regarding Licensee Participation in Drug Trafficking*, 4 FCC Rcd 7533 (1989) (citation omitted). The Commission further stated that “drug trafficking convictions fall within the scope of conduct the Commission may consider under existing policy in the broadcast area.” *Id.* (citation omitted). Cf. 21 USC § 862 (denial of federal benefits, which would include a Commission license or authorization, to convicted drug traffickers and possessors).

appear at the Status Conference held on March 21, 2017. *See Order*, FCC 17M-10 at 1-2 (rel. March 23, 2017). No one appeared on behalf of Acumen at the Show Cause Hearing on April 4, 2017. Nor did Acumen otherwise signal its intent to participate.

Acumen was warned by the Presiding Judge on the record and in *Order*, FCC 17M-10, “that if it again fails to appear or otherwise fails to address these questions, it will be considered to be in default and a bench dismissal may happen.” *Id.* at 2. By failing to appear at the Show Cause Hearing and otherwise failing to file a Notice of Appearance,³ Acumen has waived the right to be heard and is now in default.

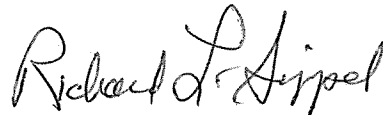
Accordingly, IT IS ORDERED that the captioned applications filed by or on behalf of Acumen, including but not limited to those for modification and renewal, ARE DENIED with prejudice.

IT IS FURTHER ORDERED that all current licenses and related authorizations for which Acumen is the licensee ARE REVOKED.

IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

This case is now CERTIFIED to the Commission in accordance with 47 CFR § 1.92.

FEDERAL COMMUNICATIONS COMMISSION⁴

A handwritten signature in black ink, reading "Richard L. Sippel". The signature is written in a cursive, flowing style.

Richard L. Sippel
Chief Administrative Law Judge

³ Section 1.221(c) of the Commission’s Rules provides, in pertinent part, that where an applicant fails to file a written appearance within the time specified, its application “will be dismissed with prejudice for failure to prosecute.” Likewise, the *HDO* states that, if Acumen fails to file a written appearance within the requisite time period, “the captioned application shall be dismissed with prejudice for failure to prosecute.” *HDO* at 7, para. 19.

⁴ Courtesy copies of this Order will be sent via certified U.S. mail on issuance to the parties listed in the *HDO* (DA 17-33), released January 10, 2017.

Attachment A

**ABSTRACT OF JUDGMENT - PRISON COMMITMENT
SINGLE OR CONCURRENT COUNT FORM**

FORM DSL 290.1

(Not to be used for Multiple Count Convictions nor Consecutive Sentences)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
BRANCH NORTHEAST

COURT ID.
19 0005

CASE NUMBER

PEOPLE OF THE STATE OF CALIFORNIA versus
DEFENDANT: **MOSQUERA, HECTOR MANUEL**
AKA:

☒ PRESENT
☐ NOT PRESENT

GA010199

COMMITMENT TO STATE PRISON.
ABSTRACT OF JUDGMENT

AMENDED
ABSTRACT ☐

DATE OF HEARING (MO) (DAY) (YR)
031192

DEPT. NO

NE H

JUDGE

JANICE CROFT

CLERK

D LEEDS

REPORTER

B MENDOZA

COUNSEL FOR PEOPLE

J BEHLING

COUNSEL FOR DEFENDANT

C GARDNER, DPD

PROBATION NO. OR PROBATION OFFICER

X-1069492

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONY (OR ALTERNATE FELONY/MISDEMEANOR):

| COUNT | CODE | SECTION NUMBER | CRIME | YEAR CRIME COMMITTED | DATE OF CONVICTION | | | CONVICTED BY | | | TERM (Y, M, D) | TIME IMPOSED | |
|-----------|-----------|----------------|----------------------------|----------------------|--------------------|-----------|-----------|--------------|-------------|----------|----------------|--------------|--------|
| | | | | | MO | DAY | YEAR | JURY TRIAL | COURT TRIAL | PLEA | | YEARS | MONTHS |
| 01 | HS | 11351 | POSS 4 SALE COCAINE | 92 | 01 | 27 | 92 | | | X | L | 2 | |

2. ENHANCEMENTS charged and found true TIED TO SPECIFIC COUNTS (mainly in the § 12022-series) including WEAPONS, INJURY, LARGE AMOUNTS OF CONTROLLED SUBSTANCES, BAIL STATUS, ETC.
For each count list enhancements horizontally. Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385.
Add up time for enhancements on each line and enter time total in right-hand column.

| Count | Enhancement | Yrs or "S" | Enhancement | Yrs or "S" | Enhancement | Yrs or "S" | Enhancement | Yrs or "S" | Enhancement | Yrs or "S" | Total |
|-------|-------------|------------|-------------|------------|-------------|------------|-------------|------------|-------------|------------|-------|
| | | | | | | | | | | | |

3. ENHANCEMENTS charged and found true FOR PRIOR CONVICTIONS OR PRIOR PRISON TERMS (mainly § 667-series) and OTHER.

List all enhancements based on prior convictions or prior prison terms charged and found true. If 2 or more under the same section, repeat it for each enhancement (e.g., if 2 non-violent prior prison terms under § 667.5(b) list § 667.5(b) 2 times). Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add time for these enhancements and enter total in right-hand column. Also enter here any other enhancement not provided for in space 2.

| Enhancement | Yrs or "S" | Enhancement | Yrs or "S" | Enhancement | Yrs or "S" | Enhancement | Yrs or "S" | Enhancement | Yrs or "S" | Total |
|-------------|------------|-------------|------------|-------------|------------|-------------|------------|-------------|------------|-------|
| | | | | | | | | | | |

4. OTHER ORDERS:

DEFENDANT SURRENDERS TO BEGIN TO SERVE 2 YEARS STATE PRISON IN THIS CASE ON 07/20/1992.

5. TIME STAYED § 1170.1(e) (DOUBLE BASE LIMIT):

6. TOTAL TERM IMPOSED:

7. ☐ THIS SENTENCE IS TO RUN CONCURRENT WITH ANY PRIOR UNCOMPLETED SENTENCE(S):

8. EXECUTION OF SENTENCE IMPOSED:

A. ☒ AT INITIAL SENTENCING HEARING B. ☐ AT RESENTENCING PURSUANT TO DECISION ON APPEAL C. ☐ AFTER REVOCATION OF PROBATION D. ☐ AT RESENTENCING PURSUANT TO RECALL OF COMMITMENT (PC § 1170(d)) E. ☐ OTHER _____

9. DATE OF SENTENCE PRONOUNCED
(MO) (DAY) (YR) **031192**

CREDIT FOR
TIME SPENT
IN CUSTODY

52

INCLUDING:

ACTUAL LOCAL
TIME

35

LOCAL CONDUCT
CREDITS

17

STATE INSTITUTIONS

☐ DMH

☐ CDC

10. DEFENDANT IS REMANDED TO THE CUSTODY OF THE SHERIFF, TO BE DELIVERED:

☒ FORTHWITH

☐ AFTER 48 HOURS,
EXCLUDING SATURDAYS,
SUNDAYS AND HOLIDAYS

INTO THE CUSTODY OF
THE DIRECTOR OF
CORRECTIONS AT THE
RECEPTION-GUIDANCE
CENTER LOCATED AT,

☐ CALIF INSTITUTION FOR
WOMEN - FRONTERA

☐ CALIF MEDICAL
FACILITY - VACAVILLE

☐ SAN QUENTIN

☒ CALIF. INSTITUTION
FOR MEN - CHINO

☐ DEVEL VOC. INST.

☐ OTHER (SPECIFY): _____

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE

DATE

07/31/92

This form is prescribed under Penal Code § 1213.5 to satisfy the requirements of § 1213 for determinate sentences under Penal Code § 1170. Attachments may be used but must be referred to in this document.

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(Not to be used for Multiple Count Convictions nor Consecutive Sentences)
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